

STATE OF DELAWARE
DEPARTMENT OF CORRECTION

CLASS I _____ CLASS II ☒

APPEAL NOTICE

DR#:

5528

INMATE NAME: HOWARD PARKER

INST#: 0065324

DATE: 10/2/05

HEARING DATE: 11-2-05

VIOLATION: 2.05

U.S. DISTRICT COURT
DISTRICT OF DELAWARE
2106

HEARING DECISION: GUILTY

SANCTION: W. R.

I understand I have 72 hours in which to file a written notice of appeal to the Class I Hearing Officer in the case of an appeal from a Class II Hearing decision or to the Warden in the case of an appeal from a Class I Hearing decision.

APPEAL: On 22 October, I, was working the cook line. They forgot to put the vegetables on food carts for merit east and west, and Gisralle ordered me to put them on the carts with Inmate Xavier. While following that order, Gisralle became unsettled because we were late getting the carts out, started screaming and rushing us. While putting the vegetables on the cart, with the pressure from Gisralle, Officer Evans started asking about the door. To be more exact, while Gisralle was yelling and screaming about getting a table to move the vegetables from the work area to the buildings - which were already running chow without vegetables - Officer Evans started asking about a door to be shut. Storeroom door.

In short, Gisralle was demanding me to continue moving the vegetables, while Evans was yelling a screaming about a door that I had no business messing with anyway- because the kitchen officers placed a sign door and ordered everyone not to touch the door or enter the clerks office in any manner. I could not do two things at one time. I did precisely what I was told to do by Gisralle, the Sgt. of the kitchen, whom was standing right there watching waiting for me to get the vegetables as he said - ordered - me to do.

INMATE'S SIGNATURE

APPEAL DECISION: _____

DR#

5528

SCI Sussex Correctional Institution

PO Box 500

Sussex, DE, 19947

Phone#: 302-856-5280

DISCIPLINARY HEARING APPEAL FORM

I did not argue, was not disrespectful, nor verbally abusive to Officer Evans. If that had occurred, Officer Gisralle would have stepped in and have said "something" about any such conduct. As it stands, Gisralle did not write a report of any kind; did not reprimand me in any manner; nor was in any way unsatisfied with my performance at that time. It did not happen and the write up is unjustified.

By the time I moved the vegetables from the kitchen to the Merit Building, Officer Evans had called over here, telling Officer Best that I was terminated and not to return to the kitchen.

On October 27, I was classified out of the building because of this write-up and incident with Officer Evans, however I was not given the write-up until today November 2, 2005. Office Evans also claimed that there are a number of counseling slips in my file, justifying the writeup, and the classification out of the building. However, there are no such documents in my file.

The entire process is inappropriate and violative of any semblance of due process... I was wrote up on 22 October... Didn't receive the write up until 2 November... Was classified and fired somewhere between the nonexistent process... A class II violation is limited to (1) loss of privileges; (2) a written reprimand; (3) and confinement to quarters... There was no opportunity for me to present evidence or witnesses...

I am appealing both the class II write up and the classification.

Phone No. 302-856-5280

Disciplinary Type: Class1 Housing Unit: MERIT IR#: 11662

Violations: 2.05 Disrespect, 2.06/200.108 Failing to Obey an Order

Description of Alleged Violation(s)

Reporting Officer: Evans, Bethany (FS Specialist I & II)

Immediate action taken by: Evans, Bethany -FS Specialist I & II

Offender Disposition Details

Disposition Of Evidence: N/A

Received, Reviewed & Approved

Comments: Sent To Lt.Fisher

OCT 22 2005

Watch Commander

Shift Supervisor Determination:

Upon reviewing this Disciplinary Report, I conclude that the offense would be properly responded to by Disciplinary Hearing

Johnson, Joseph H (Staff Lt./Lt)

Preliminary Hearing
Officer:

Offender: Parker, Howard S

**NOTICE OF DISCIPLINARY HEARING
FOR CLASS II/CLASS I OFFENSE**

TO: Inmate: A. Parker Number: 00165324 Location: MARLT

1. You are hereby ordered to appear before Hearing Officer CL. II H.O.
after _____, after _____, at S.C.I. HEARING OFFICE.
(Time of Day) (Date) (Location)

2. At the time, a hearing will be held to determine whether you violated the following Institutional Rule(s) as alleged in the attached Disciplinary Report: (State specific rule violated):
2.05 2.06

3. A Class II Offense is a rule violation in which the extent of the sanction imposed shall be restricted to: a. Written Reprimand; b. Loss of one or more privileges for a period of time of more than 24 hours but less than 5 days; c. Confinement to assigned quarters not to exceed 5 days.

4. A Class I Offense is a rule violation in which the extent of the sanction to be imposed shall be restricted to: a. Loss of one or more privileges for a period of time of more than 24 hours but less than 90 days; b. Confinement to assigned quarters for a period of time not to exceed 15 days; c. Isolation confinement for a period of time not to exceed 90 days; d. Loss of good time for a period of time not to exceed up to all earned good time; e. Restitution. Forfeiture of accumulated good time shall be subject to the approval of the Commissioner or his designee.

5. You have rights in the disciplinary process as stated on the back of this page. These have been fully explained to you at the time of this notification.

I certify that on 10/5/05 at 1430, (1) I served upon the above inmate Notice of
(Date) (Time)
Disciplinary Hearing for Class I/Class II Offense; and (2) the Disciplinary Report is attached hereto.

[Signature]
(EMPLOYEE SIGNATURE)

[Signature]
(INMATE SIGNATURE)

Class II Offense Inmate Rights in the Disciplinary Process

Right to Remain Silent: If you are charged criminally based upon the same facts giving rise to the disciplinary process, you have the right to remain silent at the Disciplinary Hearing. If you choose to remain silent your silence will not be considered against you at the Disciplinary Hearing may be considered against you.

Presence: You have the right to be present at all phases of the hearing, except that you may be excluded during the Hearing Officer's deliberations and at any time your behavior becomes disruptive to the proceedings. Reasons for such exclusions shall be stated in writing.

Impartial Hearing Officer: You have the right to be heard by an impartial Hearing Officer who shall not have witnessed the incident in question, been involved in preparation of the charge, or otherwise biased against you. Such Hearing Officer shall not have had supervisory responsibility over you during the six months immediately preceding the hearing and shall be of a rank no lower than Sergeant.

Make Statement and Present Evidence: You have the right to make a statement and present any reasonable evidence, including written statements from others, in your behalf.

Record of Findings: You have the right to receive a written record of the disciplinary hearing. Such records shall state the findings of the Hearing Officer, summarize the evidence relied upon, and will state the sanctions imposed if any.

Appeal: You have the right to appeal the decision of the Class II Hearing Officer to the Class I Hearing Officer. At the Disciplinary Hearing you will be provided with an appeal form. Execution of any sanctions imposed by the Hearing Officer UNLESS YOU INDICATE ON THE APPEAL FORM THAT YOU DO NOT INTEND TO APPEAL.